THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO. 35755 of 1998

Dated: 11-08-2005

Between:

The Project Director, A.P. Shrimp Seed Production

Supply and Research Center, Visakhapatnam

… Petitioner

and

P.Satyanarayana Murthy and another

…Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO. 35755 of 1998

ORDER:

This writ petition is filed by the Project Director, Andhra Pradesh Shrimp Seed Production Supply and Research Centre, Visakhapatnam, being aggrieved by the award dated 23-03-1998 passed in I.D.No.262 of 1994 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, the second respondent.

It is the case of the petitioner that on 04-07-1990 the first respondent-workman was appointed as a Helper by the petitioner-Management and was posted at Nellore Project, a short-term project, which exists for a period of three years. It is also stated that the first respondent never worked to the satisfaction of the concerned. While so, the first respondent was suspended for dereliction of duties on 17-07-1991 and thereafter by order dated 14-06-1992 his services were terminated. Then, the first respondent filed I.D.No.262 of 1994 under Section 2A(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') before the Labour Court, the second respondent, alleging that his services were terminated without any notice and in violation of Section 25-F of the Act. The petitioner filed a counter-affidavit before the Labour Court denying the said allegation and stating that the appointment of the first respondent was on casual basis and that he never discharged his duties satisfactorily and further that the project in which he was appointed would come to an end on 15-09-1993, and therefore, the provisions of the Act were

not attracted. However, the Labour Court holding that the petitioner-Management failed to comply with the provisions of the Act while terminating the first respondent, passed an award dated 23-03-1998 I.D.No.262 of 1994 directing the petitioner to reinstate the first respondent with full back wages and continuity of service.

A detailed counter-affidavit has been filed by the first respondent denying the allegations made by the petitioner and supporting the award passed by the second respondent.

I have given my earnest consideration to the submissions made by the learned counsel on either side and perused the award passed by the Labour Court and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error in passing the award dated 20-02-1998 I.D.No.262 of 1994 directing the petitioner to reinstate the first respondent with full back wages and continuity of service.

In fact the petitioner failed to prove as to the nature of the contractual work attended to by the first respondent, though it had asserted that the short-term project for the purpose for which the first respondent was appointed was meant for only three years.

Before the Labour Court on behalf of the workman, he himself examined as W.W-1 and Exs.W-1 to W-4 were marked and on behalf of the Management, M.W-1 was examined and Exs.M-1 and M-2 were marked. The Labour Court, after detailed consideration of the entire material, held as follows:

> *"In this case the basic facts, jural relationship between the workman and the management, the jurisdiction of this Court etc., are not at all disputed. The only defence of the management is that the*

workman came to be appointed to work in a project which by its very nature was to run for a short period of three years and as such the workman cannot complain of illegal termination when he was merely a probationer and a person appointed to a work charged post in a time bound project of temporary duration for a period of three years. All these concepts pressed into service as constituting an effective defence against the impugned termination are either alien to the Industrial Disputes Act or otherwise hit by the provisions of the Industrial Disputes Act. In the first place, it is the contention of the management that the workman was merely probationer. Such concept has got nothing to do with the definition of a workman. Then the very employment of the workman was against a work charged post. That aspect also remained unsubstantiated and unjustified within the parameters of the Industrial Disputes Act. The only plausible defence the management could identify is the project for which the workman was appointed being a project marked to remain in existence for a short duration of three years. But the management failed to prove that the workman was appointed to any such project. There is absolutely no evidence except the oral evidence of M.W-1 in that regard. Even otherwise, there is a clear admission on the part of the management that the workman was removed from service on 14-06-1992 one and three months prior to the closure of the project if we go by the specific averment found in paragraph 11 at page 4 of the management's counter. In other words, even assuming that the workman was appointed for a project of three years duration, the termination of the workman still turns out to be premature and cannot therefore get the protection contemplated by Section 200(bb) of the I.D.Act. Moreover, even in cases of closure of the short-term projects, there is a procedure as found in Sec.25FF(a) when the termination of the workman and the completion of the project are not synchronized. There is absolutely no evidence that the management ever complied with the provisions of Sec.25F of the I.D.Act. In any view of the matter, there is absolutely no reliable evidence to uphold the contention of the management that the project in question was of a short duration and this workman was specifically appointed only to that project. Thus, there can be no doubt that the

termination in question is invalid."

From the above, it is evident that the services of the first respondent were terminated merely alleging that his services were not satisfactory and on the ground of dereliction of duties. The petitioner failed to give specific reasons for termination of services of the first respondent and that the first respondent was appointed for the purpose of any short term project. Even if it is taken to be true that the first respondent was appointed for the purpose of a short term project, which existed for three years, he was removed from service even before completion of three years, which is in violation of the provisions of Section 25-F of the Act. As such the Labour Court directed the petitioner to reinstate the first respondent into service with full back wages and continuity of service. In the circumstances, I see no ground to interfere with the award passed by the Labour Court. Therefore, the writ petition is devoid of merits and the same is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

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(C.V. RAMULU, J)

Dt: 11-08-2005

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